

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

December 11, 2008

PWSID# CO-0224310

Gilpin County

Gilpin County Public Library

PO BOX 366

Central City, CO 80427

Certified Mail Number: 7007 0220 0001 0156 8540

RE: Service of Drinking Water Enforcement Order, Number: DT-081211-1

Dear Sir or Madam:

Gilpin County is hereby issued the enclosed Enforcement Order (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that you have violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order Gilpin County may request a formal hearing to contest the Order in accordance with the Regulations, 5 CCR 1003-1, §1.6.7(g). Requests for such a hearing must be filed in writing with the Department within thirty (30) calendar days after service of the Order. Hearings on enforcement orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

This action could result in the imposition of administrative or civil penalties. The Department or a State District Court is authorized pursuant to §25-1-114.1, C.R.S. to impose a penalty of up to \$1,000 per violation per day. Please be advised that the Department is continuing its investigation into this matter and the Department may identify supplementary violations that warrant amendments to this Order or the issuance of additional enforcement actions.

Should Gilpin County desire to informally discuss this matter with the Department or if Gilpin County has any questions regarding the Order, please don't hesitate to contact Scott Klarich at (303) 692-3564 or by electronic mail at scott.klarich@state.co.us.

Sincerely,



Kristi-Ray Beaudin, Legal Assistant
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

Enclosure

- cc: Consumer Protection Division, CDPHE
Compliance Monitor / Drinking Water File
- ec: Dennis Pontius, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Jeff Lawrence, Director Consumer Protection Division, CDPHE
Carolyn Schachterle, OPA



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION

ENFORCEMENT ORDER

NUMBER: DT-081211-1

IN THE MATTER OF: GILPIN COUNTY
GILPIN COUNTY PUBLIC LIBRARY
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0224310
GILPIN COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority has been delegated to the Department's Water Quality Control Division (the "Division"), the Division hereby makes the following findings and issues the following Enforcement Order:

GENERAL FINDINGS

1. Gilpin County owns and/or operates a drinking water system known as Gilpin County Public Library located at 15131 Hwy 119 in the City of Blackhawk, Gilpin County, Colorado (the "System").
2. Gilpin County is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Gilpin County is a supplier of water within the meaning of §25-1.5-201(2), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(128).
4. The System is a public water system as defined by §25-1.5-201(1), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(107).
5. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID # CO-0224310.
6. Pursuant to 5 CCR 1003-1, §1.2, the System is subject to the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.

7. Gilpin County provides piped water for human consumption from the System to at least twenty-five (25) people, but the System does not serve twenty-five (25) or more of the same people, for sixty (60) or more days per year. The System is therefore classified as a “transient, non-community water system” as defined by 5 CCR 1003-1, §1.5.2(137).
8. The System’s source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).

(Failure to Comply with the Maximum Contaminant Level for Nitrate and Failure to Perform Confirmation Sampling)

9. Pursuant to 5 CCR 1003-1, §§2.2 and 6.1.1(a)(2), all public water systems are subject to the Nitrate maximum contaminant level of 10 mg/L (as nitrogen).
10. Pursuant to 5 CCR 1003-1, §6.1.5(b)(2), the System is required to collect a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point, which is representative of each source after treatment (hereafter called a sampling point). The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.
11. Pursuant to 5 CCR 1003-1, §6.1.5(e)(4), transient non-community systems are required to monitor for Nitrate annually.
12. Pursuant to 5 CCR 1003-1, §6.1.3(a)(3), compliance with the maximum contaminant level for Nitrate is determined based on one sample if the level of this contaminant is below the maximum contaminant level. If the level of Nitrate exceeds the maximum contaminant level in the initial sample, a confirmation sample is required in accordance with 5 CCR 1003-1, §6.1.5(g)(2), and compliance shall be determined based on the average of the initial and confirmation samples.
13. Under 5 CCR 1003-1, §6.1.5(g)(2), when Nitrate sampling results indicate an exceedance of the maximum contaminant level, the System must take a confirmation sample within 24 hours of the System’s receipt of notification of the analytical results of the first sample. Systems unable to comply with the 24-hour sampling requirement must immediately notify persons served by the public water system in accordance with 5 CCR 1003-1, §9.2 and meet other Tier 1 public notification requirements under 5 CCR 1003-1, Article 9. Systems exercising this option must take and analyze a confirmation sample within two weeks of notification of the analytical results of the first sample.
14. Pursuant to 5 CCR 1003-1, §§1.6.4(a) and 6.1.2, the System is required to report to the Department the results of the System’s Nitrate analyses within (1) the first ten calendar days following the month in which a result is received, or (2) the first ten calendar days following the end of the required monitoring period, as stipulated by Department, whichever of these is shorter.
15. Division records establish that System has reported the following Nitrate monitoring data in exceedance of the maximum contaminant level to the Department:

Sample Date (Sample Point)	Nitrate Sampling Results in mg/L (as nitrogen)
10/15/08 (001)	11.38
7/31/08 (001)	13.29
5/16/08 (001)	14.28
4/2/08 (001)	12.58
1/16/08 (001)	13.74

16. Division records establish that the System did not perform confirmation sampling as required by 5 CCR 1003-1, §6.1.5(g)(2). Therefore, the Division has determined that the provided Nitrate sample results, supported by subsequent sampling results, demonstrate an ongoing exceedance of the 10 mg/L (as nitrogen) Nitrate maximum contaminant level.
17. On April 30, 2008, the Division issued a Bottled Water Order Advisory letter to the System as a measure to protect public health as a result of the exceedance of the maximum contaminate level for Nitrate.
18. Gilpin County's failure to perform the required confirmation sampling constitutes violation(s) of 5 CCR 1003-1, §6.1.5(g)(2).
19. Gilpin County's failure to maintain compliance with the Nitrate maximum contaminant level constitutes violation(s) of 5 CCR 1003-1, §2.2.

COMPLIANCE ORDER

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Gilpin County is hereby ordered to:

20. Immediately comply with the *Colorado Primary Drinking Water Regulations*, 5 CCR 1003-1, Articles 1 through 12.

Further, the Division hereby orders Gilpin County to comply with the following specific terms and conditions of this Order.

21. In order to ensure long-term compliance with the maximum contaminant level for Nitrate (5 CCR 1003-1 §2.2), Gilpin County shall upgrade, as needed, the System's water sources and/or treatment process(es) in accordance with the following time schedule:
 - a. The Division received engineering plans and specifications for Nitrate treatment from the System on August 18, 2008. The submittal was not complete and a letter requesting additional information was sent to the System on October 14, 2008. By no later than January 15, 2009,

Gilpin County shall submit to the Division the required additional information.

- b. Within forty five (45) calendar days of the Division's plans and specifications approval, Gilpin County shall complete construction, installation, and/or implementation of the Division approved system improvements to ensure long-term compliance with the Nitrate maximum contaminant level.
 - c. Within sixty (60) calendar days of the Department's plans and specifications approval letter, Gilpin County shall submit a written certification that the System improvements were constructed/installed as approved by the Department.
22. Immediately following final installation of the Department approved system improvements, Gilpin County shall take a Nitrate sample and begin performing monthly Nitrate monitoring. The Nitrate sample(s) must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods and cited detection limits. Gilpin County shall provide the Department with the results of the Nitrate analyses within ten (10) calendar days of receipt of the results from the laboratory. Gilpin County shall remain on monthly monitoring until the Department feels that the System has demonstrated consistent and reliable compliance with the Nitrate maximum contaminate level for four (4) consecutive monitoring periods (monthly). If Gilpin County has demonstrated such performance then the System may request that their Nitrate monitoring be reduced to quarterly.
23. Gilpin County shall immediately ensure that confirmation sampling be performed in accordance with 5 CCR 1003-1, §6.1.5(g)(2) in the event that the System experiences a future exceedance of the nitrate maximum contaminant level. Gilpin County should further ensure that in the event that the System experiences an exceedance of any of the regulated drinking water contaminants, it shall perform all confirmation/repeat/follow-up sampling and public notice that is required by the Regulations.
24. Installation of nitrate treatment will likely increase the System's certified operator requirements. Upon completion of construction/implementation of the Department approved System improvements, Gilpin County will immediately retain and have in place the appropriate level of certified operator. Gilpin County, if a change is applicable, shall submit an updated Operator in Responsible Charge Form to the Department immediately after the appropriately classified certified operator has been retained.
25. Consistent with the terms of the April 30, 2008 Bottled Water Order, Gilpin County shall provide a continuous posting of its public notice (*bottled water advisory*) and submit to the Division its Certification of Delivery form every two (2) weeks in accordance with 5 CCR 1003-1, §9.2 until the Division has acknowledged in writing that the System is consistently distributing safe water and lifted the Bottled Water Order.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this order, the Gilpin County shall submit an original and one copy (electronic is preferred) to the Department at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-WQP-B2
Compliance Assurance and Data Management Section
Attention: Scott Klarich
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: scott.klarich@state.co.us
Fax: (303) 782-0390

(For any facsimile transmittals, please include a cover sheet addressed to Mr. Klarich.)

Pursuant to 5 CCR 1003-1, §1.6.4(e), all reports, notices, summaries, and certifications required to be submitted to the Department by the public water system must bear the original signature of the owner or the owner's authorized representative.

NOTICE OF COMPLETION

Gilpin County shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Enforcement Order. The Division shall either accept or reject the Notice of Completion in writing. If the Division rejects the Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. If Gilpin County wishes to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) calendar days of receipt of the Division's rejection, submit a written statement as to its belief of full compliance, addressing in detail all concerns the Division raised in the rejection letter to the System's Notice of Completion.

PRIOR APPROVAL REQUIRED

Pursuant to 5 CCR 1003-1, §1.11.2, no person shall commence construction of any new waterworks, or make improvements to or modify the treatment process of an existing waterworks, or initiate use of a new source, until plans and specifications for such construction, improvements, modifications or use have been submitted to, and approved by the Department. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with all applicable laws, standards, rules and regulations.

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars (\$1,000) per violation per day, to be imposed by the Department or a State District Court. Further, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an Enforcement Order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

REQUEST FOR HEARING OR APPEAL

You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests shall state the grounds upon which the order is contested and state the amount of time the recipient estimates will be required for the hearing. Hearings on Enforcement Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S.

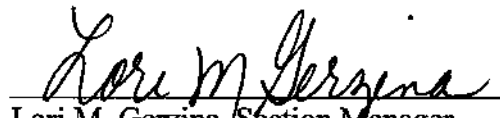
ADDITIONAL ACTION

You are further advised that under §25-1-114.1(1), C.R.S., the Department may institute a civil action against any person who violates a final Enforcement Order of the Department issued for violation of any minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S.

Additionally, the Department may request the Attorney General to seek a temporary restraining order or permanent injunction to prevent or abate any violation of a minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S. Further information concerning the aforementioned action is contained in §25-1-114.1(3), C.R.S.

Issued at Denver, Colorado, this 11th day of December, 2008.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

A handwritten signature in black ink, reading "Lori M. Gerzina", written over a horizontal line.

Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
Water Quality Control Division